



Testimony on HB 5176 Before the House Banking and Financial Services Committee

*Presented by Murray Brown, MMLA Legislative Consultant*  
November 30, 2011

Founded in 1929, MMLA is composed of over 550 members including mortgage professionals, mortgage banking firms, mortgage brokers, commercial banks, savings banks, and other business entities providing products and services to the mortgage industry.

MMLA is opposed to HB 5176, as it would result in a disparity in the length of the post-foreclosure redemption period for portfolio and non-portfolio mortgage loans. More than 85 percent of outstanding loans in Michigan are non-portfolio loans.

Non-portfolio lending is a major avenue for the inflow of mortgage capital to Michigan from other states and other countries. HB 5176 would penalize these out-of-state and foreign investors since the longer redemption period would make their servicing costs higher than servicing costs for portfolio lenders. This disparity places out-of-state investors, which fund 85 percent of Michigan loans, at a competitive disadvantage, and could reduce the availability and variety of mortgage loans in the state to the detriment of consumers.

Some lenders originate both portfolio and non-portfolio loans. The disparity resulting from HB 5176 would create an added burden and increased risk of litigation for those lenders as some of their customers have the benefit of a six-month redemption period while other customers would only have a three-month redemption period. This could cause a great deal of consumer confusion since borrowers may not have received any previous notice or explanation, at or subsequent to the closing of the loan.

Additionally, there is no precise way of distinguishing a portfolio loan from a non-portfolio loan. The definition in HB 5176 is based on whether or not the loan is sold or assigned during its term. A lender could presumably declare to a borrower its intention to sell or not sell or assign a loan to a third party. However, all 1-4 family mortgage loan contracts are on standard FannieMae, FreddieMac or GinnieMae forms. This makes it possible for eligible loans to be sold to the GSEs or other secondary market investor at

any time subsequent to closing. A portfolio lender could at any time decide to sell loans for liquidity purposes, or loans could be sold because of a merger or acquisition, or due to regulatory intervention by OFIR, the FDIC or the NCUA. This could lead to added confusion and possible litigation.

I would be happy to answer any questions the Committee might have.